United Nations CAC/COSP/IRG/2015/NGO/1

Conference of the States Parties to the United Nations Convention against Corruption

Distr.: General
21 May 2015

English only

Implementation Review Group
Sixth session
Vienna, 1-5 June 2015
Item 6 of the provisional agenda*
Other matters

Document submitted by the UNCAC Coalition, a non-governmental organization not in consultative status with the Economic and Social Council**

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UNCAC IRG BRIEFING FOR NGOS

DRAFT AGENDA

Date: *4 June 2015*

Time: *10.00 – 18.00*

Venue: *UN Vienna (Room TBA)*

Time	*Discussion*
10.00 – 10.45	**UNODC presentation and NGO questions** Chair: **Chair of IRG session**
10:45 – 11.15	**NGO statements** Chair: **Chair of IRG session** • Speaker 1: Manzoor Hasan, Chair, **UNCAC Coalition** • Speaker 2: KM Loi, **Transparency International** • Speaker 4: Dave Banisar, **Article 19** • Speaker 5: Grzegorz Makowski, **Batory Foundation**, Poland • Speaker 6: Oya Ozarslan, **TI Turkey** • Speaker 7: Laurent Gabi Wambo, **RECAAD-Cameroon**
11:15 – 13.00	**Panel 1 – Tackling money laundering** Moderator: Kevin Donegan, **Transparency International** • Nick Maxwell, **TI UK**, Money laundering with real estate • Rose Gill Hearn, **Bloomberg Associates**, Money laundering with real estate • Christine Clough, **Global Financial Integrity**, Beneficial ownership transparency • Gladwell Otieno, **AfriCOG**, Measures affecting NGOs
13.00 – 15.00	**LUNCH**
15:00 -16:00	**Panel 2—Proposals regarding the UNCAC Review Mechanism** Moderator: Manzoor Hasan, **UNCAC Coalition** • Gillian Dell, **Transparency International**, Issues and proposals for UNCAC review mechanism • **Government representatives** (invitations pending)
16.00 – 17.30	**Panel 3 - Special measures against grand corruption** Moderator: Juanita Olaya, **UNCAC Coalition** • Akaash Maharaj, **GOPAC**, Grand corruption as an international crime • Judge Mark Wolff, USA, International anti-corruption court • Adetokunbo Mumuni, **SERAP**, Nigeria, Civil remedies • Maud Perdriel-Vaissiere, **UNCAC Coalition**, Lifting immunities
17:30 – 18.00	**NGO statements (closing)** Chair: **Chair of IRG session**

United Nations CAC/COSP/IRG/2015/NGO/2

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UNCAC Coalition Letter to the UNCAC Implementation Review Group

21 May 2015

Dear Chair, Bureau, and Members of the UNCAC IRG,

On behalf of the UNCAC Coalition, I am writing with proposals regarding the UNCAC review mechanism and UNCAC processes.

The UN Convention against Corruption (UNCAC) is at an important turning point. As it celebrates its 10th year since entry into force and approaches the end of its first five-year review cycle it is time to assess its impact and determine the way forward, especially in light of how corruption feeds other global problems and presents obstacles to their solution.

There are some tangible results. We commend States Parties and the UN Office on Drugs and Crime (UNODC) for the steady progress in UNCAC implementation as well as in the UNCAC review process, which to date has produced 90 useful executive summaries, with many more reviews currently underway. We also commend States Parties and UNODC for the technical assistance provided to countries in need of it.

UNODC is more generally to be commended for its tireless work in supporting UNCAC implementation and monitoring. This includes its highly effective multi-stakeholder trainings for representatives of governments, civil society and the private sector, conducted jointly with the UNCAC Coalition and Transparency International.

However, countering corruption worldwide is a massive undertaking. While UNCAC has contributed to some progress, the results appear insufficient to stem the rising tide of corruption that affects every country. Given the scale of the challenge, much more is needed. Unless a serious allocation of resources is made to this endeavour, the results will be correspondingly inadequate. Without collaboration and trust between governments and civil society, anti-corruption efforts worldwide cannot succeed..

The UNCAC Coalition's proposals for increasing the impact of UNCAC are contained in its Statement for the 6th Conference of States Parties, submitted together with this letter. We highlight here three recommendations regarding the UNCAC review mechanism and UNCAC processes.

1. Increase civil society participation and transparency in national-level UNCAC processes

UNCAC recognises that addressing corruption requires comprehensive measures, including public participation and transparency. Corruption cannot be addressed in an environment of secrecy nor where civil society is excluded. Attempts to do so can never be credible or successful. Despite this, the phenomenon of "shrinking civic space" is increasingly well-known worldwide.

It is a serious flaw in the UNCAC review mechanism, that it makes it optional to consult with civil society in national reviews and to publish relevant information. There is a general lack of public information about the review process in many countries. Review schedules and focal points remain largely unknown and inaccessible to the public and civil society groups. Often only one or two civil society groups are invited to meet country review teams. The expected date of publication of the executive summary is not made known nor is there an announcement when it is published. Most countries have thus far not exercised the option of voluntary publication of country self-assessments and full review reports on the UNODC website. These deficiencies render UNCAC reviews much less effective than they could be.

Nevertheless, transparency and participation in country reviews appears to be gradually improving, as has occurred with review processes of other anti-corruption conventions. An increasing number of countries now publish information about the review while it is under way. In some countries more than one civil society organisation has been invited to meet reviewers during country visits. In others, civil society representatives have been included in multi-stakeholder committees. A slowly increasing number of governments have voluntarily published their full review reports (36 countries) and their self-assessments (13 countries) on the UNODC website. Moreover, we are advised that additional countries have published the full report on a government website, sometimes in the national language.

In light of the foregoing we recommend that the 6th COSP should:

- Adopt mandatory provisions on transparency and consultation with civil society for the second review cycle
- These should call for publication of relevant information about national level processes at all stages, from review schedule to date of publication of the review report.
- They should also call for meaningful consultation with civil society representatives at all stages.
- Countries still undergoing reviews in the first review cycle should be encouraged to opt for the highest standards of transparency and consultation. Those for which reviews have already been completed should be encouraged to publish their full review reports, if they have not already done so.

2. Introduce a follow-up process and ensure adequate technical assistance

The Conference of States Parties has (COSP) not thus far established a process to ensure timely country follow-up on the recommendations in UNCAC country reviews. Without such a process there is less chance that the recommendations will be acted upon, including recommendations about technical assistance needs. The benefit of the reviews may not be realised.

Follow-up is an integral part of the review processes of other anti-corruption conventions, such as the review mechanism for the Inter-American Convention against Corruption, the Council of Europe's

Group of States Against Corruption (GRECO) review process and the review process of the OECD Anti-Bribery Convention. This is for good reason.

It is welcome news that an increasing number of countries have taken the initiative to develop national action plans and introduce their own national processes, including multi-stakeholder consultations, to follow up on recommendations in UNCAC reviews. We commend the countries that have done so, which we understand include Colombia, Cuba, Malaysia, Mongolia, the Philippines, Tanzania, Zambia and Zimbabwe. We would welcome seeing other countries follow their good example. We also commend those countries that have provided technical and financial assistance to developing countries to help them to address challenges identified in their country reviews.

However, to keep momentum for the convention, it is crucial that an explicit follow-up process be included as an integral part of the review mechanism. It is important that this be done without delay, otherwise the benefits of the current review cycle may be lost. Moreover, civil society and other members of the public should have greater access to information about what technical assistance is being provided to countries to assist them in in meeting their UNCAC obligations, so that civil society groups can help support these initiatives.

In light of the foregoing we recommend that the 6th COSP should:

- Establish a follow-up process calling for States Parties to prepare and implement national action plans to respond to recommendations made in the country review reports.
- Action plans should be prepared within six months of the publication of the executive summary and submitted to UNODC, the two peer review countries and the UNCAC Implementation Review Group, as well as published on the UNODC website. The action plans should include information on technical assistance required.
- Countries should subsequently report on their progress in implementing their action plans and to make public information about what technical assistance is being provided.

3. Ensure civil society participation and transparency in international UNCAC processes

Civil society groups are currently excluded from participating as observers in sessions of the UNCAC IRG and other COSP subsidiary bodies created under UNCAC Article 63 due to objections raised by a handful of countries. With respect to the IRG, by agreement at the 4th session of the Conference of States Parties in Marrakech, a limited category of civil society representatives may each year attend a briefing "on the margins" of the IRG session. This arrangement allows for useful exchanges but is no substitute for observer status.

The exclusion of civil society is inconsistent with UNCAC and its rules, with international human rights standards and with the UN's stated values and objectives. UNCAC itself explicitly calls for civil society participation in anti-corruption efforts and the Terms of Reference for the UNCAC

Review Mechanism call for an inclusive UNCAC review process. The Rules of Procedure for the Conference of States Parties, in particular Rules 2 and 17, foresee NGO participation in UNCAC subsidiary bodies. Furthermore, the UN's Institutional Integrity Initiative calls for applying UNCAC --including Article 13- to the UN.

A 2014 report of the UN Special Rapporteur on Freedom of Association and Assembly noted that that the right to freedom of association and assembly also applies at the multilateral level and that multilateral organizations, like states, have responsibilities to maintain an enabling environment for civil society. The Special Rapporteur noted that the practice of excluding civil society organisations from UNCAC subsidiary bodies was at the bottom end of the spectrum among multilateral bodies.

In light of the foregoing we recommend that the Sixth COSP should, after plenary discussion:

- Confirm that in line with COSP rules of procedure 2 and 17, civil society organizations are entitled to participate as observers in in all COSP subsidiary bodies, including the Implementation Review Group and any UNCAC Working Groups.

We hope that you find these observations and recommendations useful and look forward to continued discussion with you on how to improve the UNCAC review mechanism, UNCAC processes and implementation of the UNCAC.

Manzoor Hasan
Chair
UNCAC Coalition

United Nations CAC/COSP/IRG/2015/NGO/3

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21 May 2015

Transparency International Statement to the Sixth Session of the UNCAC Implementation Review Group

The injustice and inequity caused by corruption is well-known and multifaceted. Concerted action to counter corruption and money laundering is essential to achieve sustainable development, stop the spread of organized crime and reverse the trend of increasing impunity for grand corruption. The UN Convention against Corruption offers the needed framework for such action.

Priority attention is needed in key vulnerable areas. Corruption-related money-laundering, facilitated by the banking sector and the real estate and luxury good markets, is one such area. Another is government contracting. With vast sums of money at stake, few government activities create greater temptations and offer more opportunities for corruption. UNODC states that "a procurement system that lacks transparency and competition is the ideal breeding ground for corrupt behaviour".[1]

Ensuring capable, functionally independent and well-resourced anti-corruption institutions is also essential if anti-corruption efforts are to succeed. Too often anti-corruption agencies are thwarted by political interference or hampered by puny budgets. Enhancing accountability and transparency in the police and the judiciary is another key step in countering corruption and organized crime, since these institutions may themselves be vulnerable to those threats. Findings from Transparency International (TI) show that the police and judiciary are perceived to be among the top-three most corrupt institutions in a country.[2]

Finally, putting an end to corruption requires the involvement of all areas of society, as recognised in UNCAC Articles 5 and 13. Lack of public information, consultation and dialogue processes undermine anti-corruption efforts. Worse still, constraints on civil society anti-corruption organizations that effectively negate the rights to freedom of expression, association and assembly render it impossible for them to play their role.

Transparency International (TI) welcomes the adoption of the Doha Declaration at the 13th UN Congress on Crime Prevention and Criminal Justice, including its emphasis on State obligations under the UNCAC and its endorsement of urgently-needed measures to effectively address illicit financial flows that conceal the proceeds of corruption and threaten the entire UN post-2015 agenda.

TI also applauds UNODC's ongoing support to anti-corruption efforts worldwide, including training and assistance to States Parties and civil society organisations in relation to the UNCAC implementation review process.

Taking into account the foregoing, we have the following recommendations to the 6th session of the UNCAC Implementation Review Group, proposed as the basis for action at the upcoming 6th session of the UNCAC Conference of States Parties:

1

2 http://www.transparency.org/gcb2013/results.

Increase efforts to stem money-laundering

Company secrecy laws, complex ownership structures, and complicity and complacency among members of both the private and public sectors, create a protective veil for those that are benefitting from corrupt practices and obstructing law enforcement investigations.

We therefore urge governments to:

- **Establish public registers to end company ownership secrecy:**
  Governments should establish public corporate registers that include beneficial ownership information, while increasing the transparency of trusts to avoid their misuse for money laundering purposes. Governments should also facilitate improvement in the due diligence conducted by the "facilitators" of illicit financial flows, including casinos, real estate agents, lawyers, accountants and company formation agents, through stricter laws requiring the licensing of service providers who form trusts and companies.

- **Increase bank scrutiny of Politically Exposed Persons**
  Governments should ensure the independent, efficient and rigorous supervision of banks and financial professionals to ensure that they conduct enhanced due diligence with regard to Politically Exposed Persons (PEPs). International bodies should align and broaden definitions of PEPs and eliminate distinction between foreign and domestic PEPs. They should expand internationally-agreed definitions of PEPs to include public functions considered high risk and use lists of officials required to file asset declarations to identify who is considered a PEP for each country. All countries that have FATF-compatible regulations should enforce and monitor them. Countries lacking such PEP regulations must urgently adopt them.[3]

- **Regulate luxury investments and enforce existing regulations:**
  Governments should adopt and enforce laws that are subject to the same AML obligations as financial institutions. This would extend to requiring real estate and associated financial brokers, as well as other high-end luxury goods dealers, to refuse cash payments above a certain amount; to know who they are doing business with (to keep a record of the identity or beneficial owner); and to report anything suspicious. Also the categories of luxury goods dealers identified by FATF should be expanded to include traders in goods whose value exceeds a given threshold. Non-compliance should be subject to dissuasive sanctions, such as withdrawal of the licence (where applicable), financial penalties and incarceration to create a clear cost for actions.[4]

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[3] See: //www.transparency.org/whatwedo/publication/policy_brief_05_2014_closing_banks_to_the_corrupt_the_role_of_due_diligence

[4] See: http://www.transparency.org/whatwedo/publication/policy_brief_04_2014_regulating_luxury_investments.

Increase procurement transparency[5]

Worldwide, procurement spending averages between 13 and 20 percent of gross domestic product.[6] The OECD estimates that corruption drains between 20 and 25 percent of national public procurement budgets.[7] Transparency should pervade all steps in the procurement cycle as it enables processes and decisions to be monitored and reviewed, and helps ensure that corruption is prevented and detected and decision-makers are held accountable.

We therefore urge governments to:

- **Publish selection and award information and clear justifications for awarding contracts as well as the details of awarded contracts and information on the execution, performance, and completion of the contract in a timely and routine manner:**
  As provided in UNCAC Article 9, governments must publish selection criteria and details of the method of award in full and in a timely manner before the procurement process begins. Governments should ensure monitoring of contracts is independent and disclose any contract alterations or sanctions, including debarment from future tenders. Governments should also have in place adequate corruption complaint mechanisms to suppliers.

- **Collect and disclose the identity and beneficial ownership of all bidders and require the disclosure of financial assets by officials involved in procurement processes and their close family members:**
  Governments must require this information from all bidders, and must publish this information at the time of the award. In addition to procurement-specific laws and regulations, laws prohibiting conflicts of interest and mandating asset disclosure are essential.

- **Make information on public procurement available for free in widely used open and structured formats:**
  Digital information should be published in widely used formats that are non-proprietary, searchable, shareable, sortable, platform-independent and machine-readable.

Ensure that anti-corruption agencies are independent and well-resourced

Anti-corruption agencies (ACAs) can offer an effective institutional approach to tackling corruption, but only if they are provided with the means to carry out their mission. UNCAC Articles 6 and 36 call for States parties to ensure the existence of independent bodies established to prevent corruption and promote anti-corruption

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[5] For further information see Transparency International's "Curbing Corruption in Public Procurement, A Practical Guidei and the open Contracting Partnership's Open Contracting Global Principles.ii

[6] OECD, "Fighting Corruption in the Public Sector": www.oecd.org/gov/ethics/meetingofleadingpractitionersonpublicprocurement.htm, 2013

[7] OECD, "Implementing the OECD Principles for Integrity in Public Procurement": www.oecd-ilibrary.org/governance/implementing-the-oecd-principles-for-integrity-in-public-procurement/why-clean-public-procurement-matters_9789264201385-3-en;jsessionid=95lfbj6h46u4a.x-oecd-live-01, 2013.

policies and principles, as well as to combat corruption. Today, Anti-Corruption Agencies (ACAs) have been established in nearly 150 countries.[8]
However, across the world a wide gap exists between the establishment of ACAs and the actual realisation of their mandates.
We therefore urge governments to:

- **Ensure that Anti-Corruption Agencies (ACAs) are functionally independent and well-resourced.** Only then do ACAs have the potential to improve the prevention, detection and sanctioning of corruption. Parameters for strong anti-corruption agencies are laid out in the *Jakarta Statement on Principles for Anti-Corruption Agencies*[9], which provides credible guidance for States and merits endorsement by the UNCAC Conference of States Parties. In order to assist progress towards the endorsement of these principles, Transparency International will launch an initiative this year to assess the performance of anti-corruption agencies in the Asia Pacific region.

Ensure transparent and accountable law enforcement and justice institutions

Criminal actors, especially organized crime, are able to leverage institutional weaknesses in the law enforcement sector, especially lack of transparency and accountability, to corrupt or take advantage of already corrupt public officials in order that their illegal activities advance unhindered. This phenomenon culminates in extremely high rates of impunity for homicide and corruption in affected countries, which itself further exacerbates violence and destabilization.[10]

Reforms are needed that deliver effective safety and policing strategies and access to justice to all people within a state, free of abuse.

We therefore urge governments to:

- **Increase adoption and exercise of effective accountability standards and mechanisms** targeting national and local security and justice sectors and institutions (e.g. civil police, prosecutors, safety ministries). These should ensure robust internal and external oversight of state security and justice procurement authorities. This includes procurement practices, human resource policies, fiscal transparency, whistleblower protection, policy formulation and implementation, as well as performance evaluation.

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[8] Principles for Anti-Corruption Agencies: A Game Changer; Jaegere, Samuel De, Jindal Journal of Public Policy, Vol. 1, Issue 1, Aug. 2012, http://www.pogar.org/publications/ac/2012/publications/PrinciplesSamuelDeJaegere.pdf.

[9] http://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKARTA_STATEMENT_en.pdf.

[10] According to the UN the sentence rate in Latin America is 24 per 100 victims: UNODC: Global Study on Homicide 2013: https://www.unodc.org/documents/data-and-analysis/statistics/GSH2013/2014_GLOBAL_HOMICIDE_BOOK_web.pdf . In Mexico, for example, 80% of homicides rates go unpunished. And in Honduras 95 to 98 percent of crimes committed go without punishment throughout the country. See: Wilson Center, "Best Practices to Reduce Homicide Rates", p. 8.

- **Improve conditions for victims and witnesses** of corruption and abuse of power, including violence, in the security and justice sectors to come forward and access justice. Whistleblower legislation should introduce the highest international standards of whistleblower protection, as embodied in the *International Principles for Whistleblower Legislation prepared by Transparency International.*[11]

- **Increase participation by civil society**, and, at local level, affected communities in law enforcement strategy formulation and oversight. Only by working with those closest to and most affected by the problems of corruption and abuse of power in security and justice institutions, and establishing "confidence networks" between communities and vetted, reform-minded actors within the security and justice networks, will it be possible develop legitimate and sustainable strategies for citizen security.

- **Improve generation and access to open data** relevant to effective oversight of security and justice institutions by civil society. We support UNODC efforts to promote transparent, verifiable, and comparable crime and victimization statistics across countries and seek more open, proactive disclosure regarding institutional budgets, procurement, asset declarations of institution officials, and human resource policies and decision making. .

Increase civil society participation in anti-corruption efforts

UNCAC Article 13 recognizes a role for civil society organisations in anti-corruption efforts and calls upon States Parties to actively promote their involvement, including through recognition of the rights to freedom of expression, association and assembly, as well as through access to information and anonymous reporting channels.

This recognition should apply not only at national but also at international level. The UN through its Institutional Integrity Initiative aims to apply UNCAC to itself. The report of the Special Rapporteur on Freedom of Association and Assembly on *Multilateral Institutions and Their Effect On Assembly and Association Rights(A/69/365)* stresses that these rights also apply at the multilateral level and that multilateral organizations, like states, have responsibilities to maintain an enabling environment for civil society. The report identified good and bad examples among the multilaterals, with exclusion of civil society from UNCAC subsidiary bodies cited as a bad example.

Further, the Rules of Procedure of the UNCAC Conference of States Parties, particularly Rules 2 and 17, entitle civil society organisations to participate as observers in UNCAC subsidiary bodies and the Terms of Reference of the UNCAC Review Mechanism establish "inclusion" as one of its guiding principles and.

[11] http://www.transparency.org/whatwedo/publication/international_principles_for_whistleblower_legislation.

We therefore urge governments to:

- **Create safe and effective conditions for civil society and engage with non-state actors** Governments should provide effective protection to civil society organizations and actively consult and engage with civil society across all areas of corruption policy development, implementation, and monitoring.

- **Ensure civil society participation as observers in UNCAC subsidiary bodies.** Exclusion of civil society groups from UNCAC subsidiary bodies is inconsistent with UN and UNCAC values, standards and rules. CSOs should be permitted to participate as observers in UNCAC subsidiary bodies.

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MAKING UNCAC WORK: COALITION STATEMENT AHEAD OF THE 6th CONFERENCE OF STATES PARTIES IN ST. PETERSBURG

Recalling that corruption weakens public institutions and the rule of law, damages the competitive and investment climate, jeopardizes sustainable development and fosters instability; furthermore, that it damages people's sense of shared obligations and rights and creates an environment of hopelessness and anger;

Reminding States Parties of their commitments under the UN Convention against Corruption (UNCAC) to promote and strengthen measures to prevent and combat corruption more efficiently and effectively;

Welcoming the recently adopted Doha Declaration promoting, *inter alia*, the rule of law and public participation at national and international levels;

Concerned that over ten years after the entry into force of the Convention there is still extensive impunity for corruption crimes;

The UNCAC Coalition calls on UNCAC States Parties to adopt resolutions at the 6th session of the UNCAC Conference of States Parties on the following:

On civil society participation

1. Reaffirm the importance of civil society participation in anti-corruption efforts, call on States Parties to ensure such participation by creating and maintaining a safe and enabling environment in which civil society can operate free from hindrance and insecurity; and note regrettable instances where such participation is constrained in a way contrary to the letter and spirit of the Convention and inconsistent with international human rights standards. Also, mandate UNODC to develop, in consultation with civil society organizations, indicators to measure involvement of civil society in the implementation of UNCAC. (UNCAC Articles 5 and 13)

2. Following discussion of a CoSP agenda item on civil society participation, confirm that in line with CoSP rules of procedure 2 and 17, civil society organizations are entitled to participate as observers in all CoSP subsidiary bodies, including the Implementation Review Group and any UNCAC Working Groups. (UNCAC CoSP Rules of procedure 2 and 17)

On the UNCAC review process

3. Add to UNCAC reviews an agreed process to follow up on country review recommendations, including recommendations for technical assistance, and ensure civil society participation in that process. (UNCAC Article 63(4)(5)(6) and (7))

4. Establish a transparent and inclusive 2nd cycle of the UNCAC review process covering both chapters II and V and, taking account of the importance of reviewing both, ensure adequate resources for this cycle. Request States Parties and UNODC to publish updated individual country review timetables, information about focal points and announcements of completion of country reviews. Also require country visits, civil society participation and publication of

key review documents, including self-assessments and full country reports. (UNCAC Article 63)

On prevention

5. Remind States Parties that, as recognized in CoSP Resolution 5/4, effective public access to information is essential for corruption prevention and calling on them to adopt and implement comprehensive access to information legislation. (UNCAC Chapter II, especially Articles 5(1), 9, 10 and 13))

6. Building on CoSP Resolution 4/4, call for the collection of beneficial ownership information through national-level public registers of companies and trusts maintained with updated current information. Also calling for governments to collect and publish beneficial ownership information of all bidders for public procurement contracts. Further call for customer due diligence obligations, including in relation to beneficial ownership, to be required or strengthened with respect to banks and other service providers, including lawyers and trust and company formation providers, and actively enforced. (UNCAC Article 12(c))

7. Call on States Parties to publish information on people with prominent public functions (Politically Exposed Persons) through national-level public registers as well as requiring them and others to file comprehensive asset declarations and make them publicly available. (UNCAC Articles 8, 14 and 52)

8. Request UNODC to convene an expert meeting to develop guidelines for the prevention, detection and sanctioning of corruption in the award of loans, subsidies and commercial licences. (UNCAC Article 12(d))

On criminalization and enforcement

9. Call on States Parties to recognize and take effective action against the serious crime of grand corruption and to encourage the exercise of extraterritorial jurisdiction for the prosecution of the same. (UNCAC Article 16(2))

10. Recognize the importance of whistleblower protection in the public and private sectors and welcome UNODC's draft Resource Guide on Good Practices in the Protection of Reporting Persons. (UNCAC Article 33)

11. Mandate UNODC to work with States Parties to develop common guidelines for settlements in corruption cases. Settlements should at a minimum:

    (i) be used only with companies that genuinely self-report, cooperate fully and have properly addressed the wrongdoing internally, including with a credible compliance programme;

    (ii) provide for admission of wrongdoing and full and specific details of the wrongdoing;

    (iii) provide for effective, proportionate and dissuasive sanctions including the full benefit received from the wrongdoing;

(iv) provide for compensation to those harmed by the offence, including foreign victims;

(v) require that any agreement, both its terms and justification, be subject to a public judicial hearing and to final court approval;

(vi) include the publication of the agreement and the related court decisions as well as, upon completion of the terms of the agreement, publication of the details on the actual performance of the agreement;

(vii) provide that, if reached with companies, the settlement does not exclude the prosecution of individuals, with no employer contribution to their fines.

(UNCAC Articles 26(4) and 30(1))

12. Call for States Parties to ensure that domestic immunities for public officials are strictly limited and that there are transparent and effective procedures for suspending them. (UNCAC Article 30(2)) Also call for States Parties to ensure that immunities and other privileges enjoyed by public officials - domestic, foreign and international - are not abused and, in particular, are not used to shield individuals from accountability for corruption offences. Further call for the CoSP to promote these standards to the International Law Commission which is in the process of drafting articles on "Immunity of State officials from foreign criminal jurisdiction".

13. Call for States Parties to have the necessary safeguards to ensure that there is no undue influence, including political influence, on enforcement decisions. Also call on States Parties to ensure the operational independence and resourcing of both specialised law enforcement bodies and the judiciary. (UNCAC Articles 11, 30(3) and 36)

On remedies for corruption

14. Remind States Parties that they must take effective measures to address the consequences of corruption and to ensure compensation for victims; welcome the legal concept of social damage presented by the Government of Costa Rica during the 4th CoSP (Corrupción y daño social, CAC/COSP/2011/CRP.6) and encourage States Parties to adopt similar approaches. Further mandate StAR/UNODC to develop a set of guiding principles based on best practice examples with respect to the identification, quantification and reparation of the damage caused by corruption. (UNCAC Articles 34 and 35)

On asset recovery

15. Call for States Parties to ensure that any corruption-related court or out of court proceedings involving corruption proceeds be conducted in line with chapter V which provides for the repatriation of said property to the country from which it was taken or that suffered damage as a result of the commission of the underlying corruption offence/s. (UNCAC Article 3 and Chapter V)

16. Call on States Parties to enact and implement comprehensive laws providing for the confiscation of any asset obtained through or derived from the commission of an offence established by the convention – including the proceeds of active bribery. (UNCAC Article 3)

17. Urge States Parties to enhance the direct recovery of property through proactive and timely information sharing and adequate laws on standing. (UNCAC Articles 53 and 56)

18. Call for States Parties to ensure that assets returned pursuant to the Convention are used and managed in a transparent and accountable manner conducive to their contributing to sustainable development. (UNCAC Article 9)

19. Call on States Parties to promote transparency and accountability by providing StAR with up-to-date information about any court or out of court proceedings involving cross-border proceeds of corruption as well as actual data on the volume of assets seized, confiscated and returned in or by their jurisdiction each year. (UNCAC Article 9)

On supplementary procedures and measures

20. Request the IRG to prepare for the 7th COSP (1) terms of reference for a communication and reporting procedure for serious non-compliance and lack of effective enforcement of UNCAC obligations; (2) a report on the advisability and feasibility of establishing a single international mechanism for resolving transnational and grand-corruption offences, prepared in consultation with relevant intergovernmental organizations; and (3) a report on options for improving coordination with the review processes of other anti-corruption conventions. (UNCAC Article 63(7))

States Parties should demonstrate their commitment in practice. As recognized by delegates at the 13th UN Congress on Crime Prevention and Criminal Justice in Doha in April 2015 paper promises are not enough to successfully combat corruption.

21 May 2015